

ESTTA Tracking number: **ESTTA717844**

Filing date: **12/31/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ms. Rocio R Castillo
Granted to Date of previous extension	01/02/2016
Address	4024 Shady Oak Court Doraville, GA 30340 UNITED STATES

Attorney information	Yu-hsuan Chang Wang & Associates, P.C. 3296 Summit Ridge Parkway Suite 2020 Duluth, GA 30096 UNITED STATES allen.chang@wa-law.net Phone: 7704955906
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Applicant Information

Application No	86576901	Publication date	11/03/2015
Opposition Filing Date	12/31/2015	Opposition Period Ends	01/02/2016
Applicant	Arvizu, Javier 305 N. Raitt st. apt.C Santa Ana, CA 92703 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2000/02/11 First Use In Commerce: 2003/07/15 All goods and services in the class are opposed, namely: Entertainment rendered by a musical act, namely, entertainment in the nature of live visual and audio performances by a musical band; live performances by a musical band; multimedia entertainment services in the nature of recording, production and post-production services in the field of music and video; Entertainment services by a musical artist, namely, music songwriting for non-advertising purposes, recording, production, publishing, music video creation, musical composition and production of musical sound recordings; Providing an Internet website portal in the field of music; Entertainment services, namely, providing non-downloadable playback of music via global communications networks

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Violation of Trademark Act Section 1(a) and related Trademark Rules and Regulations. Bad Faith

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONJUNTO RIO VERDE		
Goods/Services	Entertainment rendered by a musical act, namely, entertainment in the nature of live visual and audio performances by a musical band; entertainment services by a musical artist, namely, music songwriting for non-advertising purposes, recording, production, publishing, music video creation, musical composition and production of musical sound recordings.		

Attachments	Conjunto Rio Verde Notice of Opposition.pdf(1555064 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Yu-hsuan Chang/
Name	Yu-hsuan Chang
Date	12/31/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Castillo, Rocio Rodriguez)	
)	Trademark application
)	
Opposer,)	Serial No. 86576901
)	
v.)	Mark: "Conjunto Rio Verde de Javier
)	Arvizu"
)	
Arvizu, Javier)	Filed: March 26, 2015
)	
Applicant,)	
)	Published: November 3, 2015
)	
)	Opposition No. _____

NOTICE OF OPPOSITION

Ms. Rocio Rodriguez Castillo, an individual, residing at 4024 Shady Oak Court, Doraville, GA 30340, part owner and manager of the group known as Conjunto Rio Verde, a musical group based in Atlanta, Georgia ("Opposer").

The above-identified Opposer believes that she will be damaged by registration of the mark shown in the above-identified application, filed by Mr. Javier Arvizu ("Applicant"), and hereby opposes the same.

Classes opposed: Class 041. First Use: 2000-2-11; First Use In Commerce: 2003-7-15

All goods and services in the class are opposed, namely: Entertainment rendered by a musical act, namely, entertainment in the nature of live visual and audio performances by a musical band; entertainment services by a musical artist, namely, music songwriting for non-advertising purposes, recording, production, publishing, music video creation, musical composition and production of musical sound recordings.

As Grounds for Opposition, Opposer alleges:

1. Applicant filed an application assigned Application Serial No. 86576901 in the United States Patent and Trademark Office (“USPTO”) on March 26, 2015 (the “Application”) to register the mark CONJUNTO RIO VERDE DE JAVIER ARVIZU (the “Applicant’s Mark”) for use in connection with “entertainment rendered by a musical act, namely, entertainment in the nature of live visual and audio performances by a musical band; entertainment services by a musical artist, namely, music songwriting for non-advertising purposes, recording, production, publishing, music video creation, musical composition and production of musical sound recordings” (the “Applicant’s Services”).
2. The Application by Applicant on March 26, 2015 (the “Applicant’s Filing Date”) was based upon Applicant’s alleged use of the Applicant’s Mark in commerce starting from July 15, 2003 (the “Applicant’s Alleged First Use Date”).
3. The Application for the Applicant’s Mark was published for opposition in the *Official Gazette* on November 3, 2015. On November 30, 2015, the Opposer timely filed a request for a 30-day extension of time to oppose the Application for Applicant’s Mark, which was granted until January 2, 2016.
4. The Opposer is the manager and part-owner of the Atlanta-based musical group, Conjunto Rio Verde, whose band members came up with the name because most of the original members were originally from the city of Rioverde, San Luis Potosi, Mexico. The group has released multiple music CDs, as well as performed live musical shows in more than 10 states since its inception (the “Opposer’s Goods and Services”). The group was originally formed

and led by the Opposer's deceased husband, Jose Elias Castillo. The group has its own Facebook page and Twitter account, as well as videos of song performances uploaded on to Youtube (the "Opposer's Social Media").


5. The Opposer, as manager of the group Conjunto Rio Verde, has helped develop and maintain common law rights in the mark "CONJUNTO RIO VERDE" (the "Opposer's Mark") since at least as early as 2006.
6. The Opposer's first use date precedes the Applicant's filing date for the Applicant's Mark by over 10 years.
7. Prior to his death, the Opposer's husband filed a federal trademark registration application, Application Serial No. 85882412, on March 21, 2013, which was deemed to be abandoned when Mr. Castillo suddenly passed away and failed to respond to the USPTO within the allotted timeframe. However, actual use of the Opposer's Mark by the group is continuous and ongoing to this day.
8. Applicant's Mark CONJUNTO RIO VERDE DE JAVIER ARVIZU is identical or nearly identical to Opposer's Mark CONJUNTO RIO VERDE. Applicant knew of Opposer's use of a nearly identical mark prior to filing for his own federal registration, constituting bad faith. Both Applicant and Opposer have been using their respective marks for more than 10 years. The Applicant's Mark was in fact made more specific to include the name of the registrant only in the Application itself, as the group name Applicant's band uses is just Conjunto Rio Verde, which is identical to Opposer's Mark. Applicant's registration and use of the CONJUNTO RIO VERDE DE JAVIER ARVIZU mark would likely create confusion,

mistake, or deception in the minds of prospective purchasers as to the origin or source of the Opposer's Goods and Services associated with the CONJUNTO RIO VERDE Mark.

9. The Applicant's Services are closely related to and/or are in the natural zone of expansion of the Opposer's Goods and Services. The Opposer's Goods and Services are advertised and sold on-line on Opposer's Social Media and other third-party websites such as Youtube.com and Amazon.com. The Applicant's Services are the same or substantially similar to those entertainment related services provided by the Opposer.
10. The Opposer's Goods and Services and the Applicant's Services travel in the same channels of trade and are viewed by the same customers including those who buy music CDs and/or MP3 digital downloads of songs. Applicant's Services are therefore substantially similar to the Opposer's Goods and Services with which the Opposer's Mark is used.
11. Purchasers familiar with Opposer's Goods and Services are likely to mistakenly believe that the Applicant's Services are sponsored by, authorized, endorsed, affiliated with or otherwise approved by the Opposer because the CONJUNTO RIO VERDE DE JAVIER ARVIZU Mark sought to be registered and used by the Applicant is identical to or confusingly similar to the Opposer's CONJUNTO RIO VERDE Mark.
12. For the foregoing reasons, the registration sought by the Applicant is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes that she would be damaged thereby.

13. On information and belief, at the time Applicant filed the Application, Applicant did not have actual use of Applicant's Mark as a trademark with each of Applicant's Services.
14. Applicant's Application should not be granted because it was not filed based on actual use of the Applicant's Mark with Applicant's Services, and on information and belief, Applicant failed to satisfy the requirements of Trademark Act Section 1(a) and related Trademark Rules and Regulations. The Applicant currently uses the mark CONJUNTO RIO VERDE, which is identical to the Opposer's Mark. The Applicant's Facebook page, Twitter page, and Youtube channel all show the mark as CONJUNTO RIO VERDE, with no specific use of DE JAVIER ARVIZU.
15. For the foregoing reasons, the registration sought by the Applicant is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes that she would be damaged thereby.
16. WHEREFORE, Opposer respectfully requests that registration of the Applicant's Mark shown in Application Serial No. 86576901 be refused and that this Opposition be sustained in favor of Opposer.

DATED: December 31, 2015

By: 
Yu-hsuan Chang
Attorney for Opposer
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Date: 12/31/15

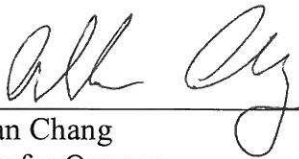
CERTIFICATE OF SERVICE

On December 31, 2015, I, Yu-hsuan Chang, served a copy of this Notice of Opposition to the Applicant and to his Agent at the following addresses:

Javier Arvizu
305 N. Raitt St.
Apt. C
Santa Ana, CA 92703

John Salcido
Raj Abhyanker P.C.
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by U.S. priority express mail.



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Date: 12/31/15